

1 Jon F. Monroy, SBN 51175
Jennifer E. Gysler, SBN 143449
2 MONROY, AVERBUCK & GYSLER
32123 Lindero Canyon Rd., Ste 301
3 Westlake Village, CA 91361
4 (818) 889-0661 Fax (818) 889-0667

Attorneys for Defendants, COUNTY OF LOS ANGELES;
5 CHRISTOPHER EAGER-FINNEY; MELISSA S. HATANAKA;
6 SEAN FERRELL

7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 ESTATE OF JOSEPH GAMA, et al.)	Case No.: 2:17-CV-05734 JFW AS
11)	
12 Plaintiffs,)	DEFENDANTS COUNTY OF LOS
13 vs.)	ANGELES, CHRISTOHER EAGER-
14 COUNTY OF LOS ANGELES, et al.)	FINNEY, MELISSA S. HATANAKA,
15)	and SEAN FERRELL's ANSWER TO
16 Defendants.)	FIRST AMENDED COMPLAINT and
)	DEMAND FOR JURY TRIAL
)	
)	
)	

17
18 COMES NOW, Defendants COUNTY OF LOS ANGELES,
19 CHRISTOPHER EAGER-FINNEY, MELISSA S. HATANAKA, and SEAN
20 FERRELL, and hereby answer each allegation against them, in Plaintiffs' First
21 Amended Complaint, as follows:
22

- 23 1. In response to Paragraph 1 of Plaintiffs' First Amended Complaint,
24 Defendants admit that based on Plaintiffs' contentions, venue and
25 jurisdiction are proper.

Answer to First Amended Complaint

- 1 2. In response to Paragraph 2 of Plaintiffs' First Amended Complaint,
2 defendants have insufficient information with which to admit or deny
3 this allegation.
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- 5 3. In response to Paragraph 3 of Plaintiffs' First Amended Complaint,
6 defendants have insufficient information with which to admit or deny
7 this allegation.
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- 9 4. In response to Paragraph 4 of Plaintiffs' First Amended Complaint,
10 defendants have insufficient information with which to admit or deny
11 this allegation.
12
- 13 5. In response to Paragraph 5 of Plaintiffs' First Amended Complaint,
14 defendants have insufficient information with which to admit or deny
15 this allegation.
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- 17 6. In response to Paragraph 6 of Plaintiffs' First Amended Complaint,
18 defendants have insufficient information with which to admit or deny
19 this allegation.
20
- 21 7. In response to Paragraph 7 of Plaintiffs' First Amended Complaint,
22 defendants have insufficient information with which to admit or deny
23 this allegation.
24
- 25 8. In response to Paragraph 8 of Plaintiffs' First Amended Complaint,
 defendants admit that the Sheriff oversees the jail. Defendants deny

1 that there were any statutory or constitutional violations regarding the
2 decedent, and deny any failure in regard to policies, rules, directives,
3 or any other alleged misconduct.
4

5 9. In response to paragraph 9 of Plaintiffs' First Amended Complaint,
6 defendants deny each and every allegation contained therein.
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8 10. In response to paragraph 10 of Plaintiffs' First Amended Complaint,
9 defendants deny each and every allegation contained therein.
10

11 11. In response to paragraph 11 of Plaintiffs' First Amended Complaint,
12 defendants admit that Dr. Truong treated the decedent on one
13 occasion during his incarceration, but denies the remainder of the
14 allegations contained therein.

15 12. In response to paragraph 12 of Plaintiffs' First Amended Complaint,
16 defendants admit that Ms. Hatanaka conducted an assessment of the
17 decedent during his incarceration, but denies the remainder of the
18 allegations contained therein.
19

20 13. In response to paragraph 13 of Plaintiffs' First Amended Complaint,
21 defendants admit that Mr. Eagar-Finney assessed the decedent during
22 his incarceration, but denies the remainder of the allegations contained
23 therein.
24
25

1 14. In response to paragraph 14 of Plaintiffs' First Amended Complaint,
2 defendants admit that Ms. Ferrell evaluated the decedent during his
3 incarceration, but denies the remainder of the allegations contained
4 therein.

5
6 15. In response to paragraph 15 of Plaintiffs' First Amended Complaint,
7 defendants admit that Paul Levine saw the decedent during his
8 incarceration, but denies the remainder of the allegations contained
9 therein.

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11 16. In response to paragraph 16 of Plaintiffs' First Amended Complaint,
12 defendants admit that Victor Banuelos saw the decedent during his
13 incarceration, but denies the remainder of the allegations contained
14 therein.

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16 17. In response to paragraph 17 of Plaintiffs' First Amended Complaint,
17 defendants admit that Ms. Rivera assessed the decedent during this
18 incarceration, but denies the remainder of the allegations contained
19 therein.

20
21 18. In response to paragraph 18 of Plaintiffs' First Amended Complaint,
22 defendants have insufficient information with which to admit or deny
23 the allegations, and therefore, deny each and every allegation
24 contained therein.
25

1 19. In response to paragraph 19 of Plaintiffs' First Amended Complaint,
2 defendants have insufficient information with which to admit or deny
3 the allegations, and therefore, deny each and every allegation
4 contained therein.
5

6 20. In response to paragraph 20 of Plaintiffs' First Amended Complaint,
7 defendants have insufficient information with which to admit or deny
8 the allegations, and therefore, deny each and every allegation
9 contained therein.
10

11 21. In response to Paragraph 21 of Plaintiffs' First Amended Complaint,
12 defendants admit that the County of Los Angeles is a public entity
13 organized under the laws of the State of California, and that said
14 entities are departments of the County.
15

16 22. In response to Paragraph 22 of Plaintiffs' First Amended Complaint,
17 defendants deny each and every allegation contained therein.
18

19 23. In response to Paragraph 23 of Plaintiffs' First Amended Complaint,
20 defendants deny each and every allegation contained therein.
21

22 24. In response to Paragraph 24 of Plaintiffs' First Amended Complaint,
23 defendants deny each and every allegation contained therein.
24

25 25. In response to Paragraph 25 of Plaintiffs' First Amended Complaint,
26 defendants deny that the decedent was in good health. Defendants

1 have insufficient information with which to admit or deny the
2 remaining allegations and hence deny same.

3
4 26. In response to paragraph 26 of Plaintiffs' First Amended Complaint,
5 defendants admit that the decedent was found hanged in his cell on
6 June 12, 2015, and pronounced dead by paramedics. The mode of
7 death was suicide.

8
9 27. In response to paragraph 27 of Plaintiffs' First Amended Complaint,
10 defendants admit that the decedent was found hanged in his cell on
11 June 12, 2015, and pronounced dead by paramedics. The mode of
12 death was suicide. The decedent was provided mental health services
13 while incarcerated. The care and treatment provided to him was
14 within the standard of care and not causative of his death. Defendants
15 deny the remainder of the allegations.

16
17 28. In response to paragraph 28 of Plaintiffs' First Amended Complaint,
18 defendants deny each and every allegation contained therein.

19
20 29. In response to paragraph 29 of Plaintiffs' First Amended Complaint,
21 defendants assert that at the time of the subject events, proper policies,
22 trainings and delivery of mental health services were in place. The
23 decedent was provided mental health services while incarcerated. The
24 care and treatment provided to him was within the standard of care
25

1 and not causative of his death. Defendants deny the remainder of the
2 allegations.

3
4 30. In response to paragraph 30 of Plaintiffs' First Amended Complaint,
5 defendants assert that at the time of the subject events, proper policies,
6 trainings and delivery of mental health services were in place. The
7 decedent was provided mental health services while incarcerated. The
8 care and treatment provided to him was within the standard of care
9 and not causative of his death. Defendants deny the remainder of the
10 allegations.
11

12
13 31. In response to paragraph 31 of Plaintiffs' First Amended Complaint,
14 defendants assert that at the time of the subject events, proper policies,
15 trainings and delivery of mental health services were in place. The
16 decedent was provided mental health services while incarcerated. The
17 care and treatment provided to him was within the standard of care
18 and not causative of his death. Defendants deny the remainder of the
19 allegations.
20

21
22 32. In response to paragraph 32 of Plaintiffs' First Amended Complaint,
23 defendants assert that at the time of the subject events, proper policies,
24 trainings and delivery of mental health services were in place. The
25 decedent was provided mental health services while incarcerated. The

1 care and treatment provided to him was within the standard of care
2 and not causative of his death. Defendants deny the remainder of the
3 allegations.
4

5 33. In response to paragraph 33 of Plaintiffs' First Amended Complaint,
6 defendants assert that at the time of the subject events, proper policies,
7 trainings and delivery of mental health services were in place. The
8 decedent was provided mental health services while incarcerated. The
9 care and treatment provided to him was within the standard of care
10 and not causative of his death. Defendants deny the remainder of the
11 allegations.
12

13 34. In response to paragraph 34 of Plaintiffs' First Amended Complaint,
14 defendants assert that at the time of the subject events, proper policies,
15 trainings and delivery of mental health services were in place. The
16 decedent was provided mental health services while incarcerated. The
17 care and treatment provided to him was within the standard of care
18 and not causative of his death. Defendants deny the remainder of the
19 allegations.
20

21 35. In response to paragraph 35 of Plaintiffs' First Amended Complaint,
22 defendants assert that at the time of the subject events, proper policies,
23 trainings and delivery of mental health services were in place. The
24
25

1 decedent was provided mental health services while incarcerated. The
2 care and treatment provided to him was within the standard of care
3 and not causative of his death. Defendants deny the remainder of the
4 allegations.
5

6 36. In response to Paragraph 36 of Plaintiffs' First Amended Complaint,
7 defendants deny each and every allegation contained therein.
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9 37. In response to Paragraph 37 of Plaintiffs' First Amended Complaint,
10 defendants deny each and every allegation contained therein.
11

12 38. In response to Paragraph 38 of Plaintiffs' First Amended Complaint,
13 defendants deny each and every allegation contained therein.
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15 39. In response to Paragraph 39 of Plaintiffs' First Amended Complaint,
16 defendants deny each and every allegation contained therein.
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18 40. In response to Paragraph 40 of Plaintiffs' First Amended Complaint,
19 defendants deny each and every allegation contained therein.
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21 41. In response to Paragraph 41 of Plaintiffs' First Amended Complaint,
22 defendants deny each and every allegation contained therein.
23

24 42. In response to Paragraph 42 of Plaintiffs' First Amended Complaint,
25 defendants have insufficient information with which to admit or deny
these allegations and on that basis, deny them.

1 43. In response to Paragraph 43 of Plaintiffs' First Amended Complaint,
2 defendants deny each and every allegation contained therein.

3 44. In response to Paragraph 44 of Plaintiffs' First Amended Complaint,
4 defendants deny each and every allegation contained therein.

5 45. In response to paragraph 45 of Plaintiffs' First Amended Complaint,
6 defendants admit that the decedent was found hanged in his cell on
7 June 12, 2015, and pronounced dead by paramedics. The mode of
8 death was suicide. The decedent was provided mental health services
9 while incarcerated. The care and treatment provided to him was
10 within the standard of care and not causative of his death. Defendants
11 deny the remainder of the allegations.
12

13 46. In response to Paragraph 44 of Plaintiffs' First Amended Complaint,
14 defendants deny each and every allegation contained therein.

15 47. In response to Paragraph 44 of Plaintiffs' First Amended Complaint,
16 defendants deny each and every allegation contained therein.

17 48. In response to Paragraph 44 of Plaintiffs' First Amended Complaint,
18 defendants deny each and every allegation contained therein.

19 49. In response to Paragraph 44 of Plaintiffs' First Amended Complaint,
20 defendants deny each and every allegation contained therein.
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50. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

51. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

52. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

53. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

54. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

55. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

56. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

57. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

58. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

59. In response to Paragraph 44 of Plaintiffs' First Amended Complaint, defendants deny each and every allegation contained therein.

- 1 60. In response to Paragraph 44 of Plaintiffs' First Amended Complaint,
2 defendants deny each and every allegation contained therein.
3
- 4 61. In response to Paragraph 44 of Plaintiffs' First Amended Complaint,
5 defendants deny each and every allegation contained therein.
6
- 7 62. In response to Paragraph 62 of Plaintiffs' First Amended Complaint,
8 defendants have insufficient information with which to admit or deny
9 said allegations and on that basis, denies them.
- 10 63. In response to Paragraph 63 of Plaintiffs' First Amended Complaint,
11 defendants deny each and every allegation contained therein.
12
- 13 64. In response to Paragraph 64 of Plaintiffs' First Amended Complaint,
14 defendants deny each and every allegation contained therein.
- 15 65. In response to Paragraph 65 of Plaintiffs' First Amended Complaint,
16 defendants deny each and every allegation contained therein.
17
- 18 66. In response to Paragraph 66 of Plaintiffs' First Amended Complaint,
19 defendants deny each and every allegation contained therein.
- 20 67. In response to Paragraph 67 of Plaintiffs' First Amended Complaint,
21 defendants deny each and every allegation contained therein.
22
- 23 68. In response to Paragraph 68 of Plaintiffs' First Amended Complaint,
24 defendants deny each and every allegation contained therein.
25

1 69. In response to Paragraph 69 of Plaintiffs' First Amended Complaint,
2 defendants deny each and every allegation contained therein.

3 70. In response to Paragraph 70 of Plaintiffs' First Amended Complaint,
4 defendants deny each and every allegation contained therein.

5 71. In response to Paragraph 71 of Plaintiffs' First Amended Complaint,
6 defendants deny each and every allegation contained therein.

7 72. In response to Paragraph 72 of Plaintiffs' First Amended Complaint,
8 defendants deny each and every allegation contained therein.

9 73. In response to Paragraph 73 of Plaintiffs' First Amended Complaint,
10 defendants deny each and every allegation contained therein.

11 74. In response to Paragraph 74 of Plaintiffs' First Amended Complaint,
12 defendants deny each and every allegation contained therein.

13 75. In response to Paragraph 75 of Plaintiffs' First Amended Complaint,
14 defendants deny each and every allegation contained therein.

15 76. In response to Paragraph 76 of Plaintiffs' First Amended Complaint,
16 defendants deny each and every allegation contained therein.

17 77. In response to Paragraph 77 of Plaintiffs' First Amended Complaint,
18 defendants deny each and every allegation contained therein.

19 78. In response to Paragraph 78 of Plaintiffs' First Amended Complaint,
20 defendants deny each and every allegation contained therein.

1 79. In response to Paragraph 79 of Plaintiffs' First Amended Complaint,
2 defendants deny each and every allegation contained therein.

3 80. In response to Paragraph 80 of Plaintiffs' First Amended Complaint,
4 defendants deny each and every allegation contained therein.

5 81. In response to Paragraph 81 of Plaintiffs' First Amended Complaint,
6 defendants deny each and every allegation contained therein.

7 82. In response to Paragraph 82 of Plaintiffs' First Amended Complaint,
8 defendants deny each and every allegation contained therein.

9 83. In response to Paragraph 83 of Plaintiffs' First Amended Complaint,
10 defendants deny each and every allegation contained therein.

11 84. In response to Paragraph 84 of Plaintiffs' First Amended Complaint,
12 defendants deny each and every allegation contained therein.

13 85. In response to Paragraph 85 of Plaintiffs' First Amended Complaint,
14 defendants deny each and every allegation contained therein.

15 86. In response to Paragraph 86 of Plaintiffs' First Amended Complaint,
16 defendants deny each and every allegation contained therein.

17 87. In response to Paragraph 87 of Plaintiffs' First Amended Complaint,
18 defendants deny each and every allegation contained therein.

19 88. In response to Paragraph 88 of Plaintiffs' First Amended Complaint,
20 defendants deny each and every allegation contained therein.

1 89. In response to Paragraph 89 of Plaintiffs' First Amended Complaint,
2 defendants deny each and every allegation contained therein.

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4 In addition to the preceding Answers and/or Responses to the specific
5 allegations in Plaintiffs' First Amended Complaint, defendants further raise the
6 following affirmative defenses:

7 FIRST AFFIRMATIVE DEFENSE

8
9 FAILURE TO STATE A CAUSE OF ACTION

10 Defendants hereby alleges that the First Amended Complaint herein fails to
11 state facts sufficient to constitute a cause of action against this defendant; or, in the
12 alternative, that this action should be dismissed under Federal Rule of Civil
13 Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.

14
15 SECOND AFFIRMATIVE DEFENSE

16 DEFENSE OF LIMITATIONS

17 As a further, separate and affirmative defense to Plaintiffs' First Amended
18 Complaint, and each cause of action thereof, defendants allege that the time
19 alleged in said complaint demonstrates that this action was not brought within the
20 requisite statutory period.
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1 THIRD AFFIRMATIVE DEFENSE

2 CONTRIBUTORY NEGLIGENCE

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4 As a further, separate and affirmative defense to Plaintiffs' First Amended
5 Complaint, and each cause of action thereof, defendants allege that damages
6 sustained by Plaintiffs, if any, were legally caused and/or contributed to by
7 Plaintiffs' own acts, omissions, negligence and/or failure to take reasonable and
8 necessary actions to eliminate, mitigate, lessen, reduce and/or minimize such
9 damages, thus barring or reducing Plaintiffs' recovery.

10
11 FOURTH AFFIRMATIVE DEFENSE

12 ACTIONS OF OTHERS

13
14 As a further, separate and affirmative defense to Plaintiffs' First Amended
15 Complaint, and each cause of action thereof, defendants allege that the injuries
16 alleged by Plaintiffs, if any, were legally caused by the negligence and/or conduct
17 of other persons or entities, and these Answering Defendants request that an
18 allocation of such negligence and liability be made among other persons or entities,
19 and that if any liability is found on the part of these Answering Defendants,
20 judgment against said Defendants only be in the amount which is proportionate to
21 the extent and percentage by which these Answering Defendants' actual omission
22 contributed to Plaintiffs injuries or damages.
23
24
25

1 FIFTH AFFIRMATIVE DEFENSE

2 NOT IN SCOPE OF EMPLOYMENT

3
4 As a further, separate and affirmative defense to Plaintiffs First Amended
5 Complaint and each of action thereof, Answering Defendants allege, without
6 admitting any facts contained within the subject complaint, the individuals
7 identified by Plaintiffs as involved in the alleged improper conduct were not acting
8 within the course and scope of any employment or agency with these Answering
9 Defendants at the time of the subject incident(s) and, therefore, these Answering
10 Defendants are not responsible nor liable for the alleged wrongful conduct.
11

12 SIXTH AFFIRMATIVE DEFENSE

13 FAILURE TO MITIGATE DAMAGES

14
15 As a further, separate and affirmative defense to Plaintiffs' First Amended
16 Complaint and each cause of action thereof, defendants allege that Plaintiff is
17 barred from recovery herein, in whole or in part, by reason of his failure to mitigate
18 damages.
19

20 SEVENTH AFFIRMATIVE DEFENSE

21 IMMUNITY

22
23 As a further, separate and affirmative defense to Plaintiffs First Amended
24 Complaint and each cause of action thereof, defendants allege that, pursuant to
25

1 Federal and State law and decisional authority, defendants are immune from the
2 claims, causes of action and allegations of plaintiffs.

3
4 EIGHTH AFFIRMATIVE DEFENSE

5 QUALIFIED IMMUNITY

6 As a further, separate and affirmative defense to Plaintiffs' First Amended
7 Complaint and each cause of action thereof, defendants allege that, pursuant to
8 Federal and State law and decisional authority, defendants have qualified immunity
9 from the claims, causes of action and allegations of plaintiffs.
10

11 NINTH AFFIRMATIVE DEFENSE

12 STATUTE OF LIMITATIONS

13
14 Allege that the action is barred by the provisions of the Code of Civil
15 Procedure, Section 340(3), 340.5, 364(a) and Government Code Sections 900 et
16 seq., including Sections 911.2 and 945.6.

17 TENTH AFFIRMATIVE DEFENSE

18
19 GOV'T TORT CLAIMS ACT REQUIREMENTS

20 Allege that the action is barred due to the failure to comply with
21 Government Tort Claims presentation requirements, including Government Code,
22 Sections 911.2, 911.4, 945.4, and/or 946.6.
23

24 ELEVENTH AFFIRMATIVE DEFENSE

25 MICRA

1 Alleges at the time of trial, Defendants may elect to limit or diminish
2 Plaintiffs' alleged damages or losses as provided and authorized by California
3 Civil Code, Section 3333.1, California Civil Code, Section 3333.2 and California
4 Code of Civil Procedure, Section 667.7; and,
5

6 TWELTH AFFIRMATIVE DEFENSE


7 STATE TORT CLAIMS ARE BARRED

8
9 Alleges that the action is barred by Part 2, Chapter 5 of the Tort Claims Act,
10 including specifically, Government Code, Sections 818.8, 820.2, 821.6, 854.8.,
11 855.8, 856, as well as Welfare & Institutions Code, Section 5278.

12 WHEREFORE, these Answering Defendants pray for judgment as follows:
13

- 14 1. That Plaintiffs take nothing by this action;
- 15 2. That this action be dismissed;
- 16 3. That Defendants be awarded its costs of suit herein; and,
- 17 4. For such other and further relief as the Court may deem just and
18 proper, including an award of attorney's fees pursuant to 42
19 U.S.C. Section 1988, and that if these Answering Defendants
20 are found liable, the degree of responsibility and liability for the
21 resulting damage be determined so that Defendants may be held
22 liable only for that portion of the total damage in proportion to
23 its liability for same.
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3 DATED: November 3, 2017 MONROY, AVERBUCK & GYSLER
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6 _____
7 JENNIFER E. GYSLER
8 Attorneys for Defendants
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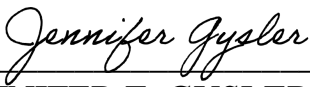
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REQUEST FOR JURY TRIAL

Defendants hereby request a Trial by jury.

DATED: November 3, 2017

MONROY, AVERBUCK & GYSLER



JENNIFER E. GYSLER
Attorneys for Defendants